IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

WP(C).No. 31862 of 2007(R)

OS.797/2006 of PRL.M.C.,IRINJALAKUDA
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PETITIONER:

SIVARAMAN, S/O KARTHYANI AMMA,
NAGATH HOUSE, THALAVANIKKARA DESOM,
NENMANIKKARA VILLAGE, MUKUNDAPURAM TALUK.

BY ADV. SRI.T.N.MANOJ

RESPONDENT:

SREEDHARAN, S/O KUMARAN,
UTTOLLY HOUSE, AMBALLUR VILLAGE & DESOM,
MUKUNDAPURAM TALUK.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Appendix

Petitioner's Exts:

Ext.P1 true copy of the report of the Advocate Commissioners Report in OS 797/2006.

Ext.P2 true copy of the orders dt. 6/10/2006 in IA 1267/2006 & IA 1515/2006 in OS 797/2006 and IA 1667/2006.

Ext.P3 true copy of the petition IA 1024/2007 in OS 797/2006.

Ext.P4 true copy of the order in IA 1024/2007 in OS 797/2006

M.N.Krishnan, J.

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W.P(C).No.31862 of 2007

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Dated this the 6th day of December, 2007.

JUDGMENT

This Writ Petition is preferred against the order of the Principal Munsiff, Irinjalakuda in I.A.No.1024 of 2007 in O.S.No.797 of 2006. It is an application to direct the Circle Inspector of Police, Pudukad to take appropriate steps to see that the order of temporary injunction passed by the court in I.A.No.1267 of 2006 is properly complied with. Counsel for the writ petitioner has produced the order of the court as Ext.P2. Prayer in the application for temporary injunction was to pass an order of injunction from evicting the writ petitioner from the plaint schedule property by force or in any way interfering with the petitioner's possession of the plaint schedule properties or committing acts of disturbance or obstruction in conducting the petitioner's business in the plaint schedule properties till the disposal of the suit by way of temporary injunction.

2. The court restricted the order of temporary injunction to the effect that the respondent is injuncted from evicting the petitioner from the plaint schedule properties by force or in any way interfering with the possession of the plaint schedule properties. The court also vacated the order of temporary injunction granted against the respondent restraining him from committing acts of disturbance or obstruction in conducting the petitioner's business in the plaint schedule properties. So, the prayer in toto has not been allowed. Only an injunction is given with respect to the forcible eviction and protection of possession. The court has vacated the order of injunction whereby the restriction imposed on the respondent is taken away. It is in this background the petition has to be considered. The court below elaborately considered the matter in detail and found that the order passed in I.A.No.1267 of 2006 is to be implicitly followed but also made an observation that the petitioner is not entitled to start business in the plaint schedule properties with the help of the above order. So what the court has done is to provide police protection and the plaintiff shall not take it as a weapon to start the business. It is obvious for the reason that the entire prayer

in the injunction petition is disallowed. Therefore, the direction given by the court to implement the order passed by it alone is sustainable.

3. Therefore, I do not find any ground to interfere with the decision rendered by the learned Munsiff and therefore, the Writ Petition is dismissed. Since the whole thing is in a deadlock situation, it is desirable that the court below disposes of the case itself within a time frame of three months from today.

M.N.Krishnan,
Judge.

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